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October 30, 2007

TO: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Yvonne B. Burke
Supervisor Don Knabe
Supervisor Michael D. Antonovich

FROM: William T Fujioka
Chief Executive Officer

Carlos Jackson, Executive Director
Community Development Commission

REPORT ON REQUEST FOR PROPOSALS PROCESS – LOS ANGELES COUNTY HOMELESS & HOUSING PROGRAM FUND CITY/COMMUNITY PROGRAMS

On October 23, 2007, Supervisor Yaroslavsky requested clarification regarding submission requirements for the Los Angeles County Homeless and Housing Program Fund City/Community Programs Request for Proposal (RFP) issued on July 17, 2007 with a submission deadline of October 15, 2007 at 3:00 p.m. Supervisor Yaroslavsky specifically sought clarification with respect to two agencies whose proposals were rejected by the Community Development Commission (CDC), because they did not present the required PC formatted compact disc (CD) along with hard copies of their proposals. In addition, Supervisor Knabe made an inquiry regarding an agency that had contacted his office because of their failure to meet the proposal submission deadline.

Background

On June 26, 2007, your Board approved the release of the City/Community Programs RFP. The RFP was developed in collaboration with the Homeless Prevention Initiative Team which is composed of representatives from the Chief Executive Office (CEO) and various County departments. The RFP stated that a complete submission included: (1) an original and three hard copies of the proposal clearly tabbed in sturdy binders and (2) one exact electronic copy on a PC formatted CD. The RFP instructions stated

that "proposals that are incomplete, out of order, have an inadequate number of copies, or have other content errors, inconsistencies, misrepresented information, or deficiencies, shall be rejected at the Community Development Commission's discretion".

CDs were required to enable the CDC to produce additional copies of proposals for review purposes. CDC believed that requiring proposers to deliver numerous hard copies could impose a financial burden. CDs were selected as the best electronic medium to use because floppy discs may not hold a voluminous document in its entirety and documents saved onto flash drives can be inadvertently or intentionally altered.

Mandatory pre-proposal conferences were conducted in five different locations selected by your Board. Attendance was mandatory so that all agencies considering making a proposal would be clear on the submission requirements and the evaluation process. Eighty-nine complete and timely proposals, representing all five Supervisorial Districts, were received and are currently under review for compliance with threshold requirements. CDC records indicate that all of the agencies who submitted proposals attended one of the mandatory proposers' conferences, and signed an acknowledgement of attendance and receipt of information. All were advised that proposals were due no later than 3:00 p.m., on October 15, 2007.

Submission Issues

New Directions and Clare Foundation submitted proposals using the wrong electronic media. One agency provided a floppy disc and the other a flash drive instead of a CD. Due to this deficiency, these proposals were rejected. Also, agencies arriving at CDC offices after the 3:00 p.m. deadline were advised that their proposals were not accepted because they were late. CDC does note that New Directions and Clare Foundation otherwise submitted timely and would have made the submission requirements except for the form of electronic media.

County Counsel Review

County Counsel has pointed out that the RRP contains a provision in Section 10.1 that provides that: "[n]otwithstanding any other provisions herein, the CDC reserves the right in its sole discretion to waive minor technical deficiencies in the Proposals." Further, CDC has indicated that it does have the computer capability to process electronic data contained on flash drives and floppy disks. In light of this information,

County Counsel has advised that the CDC's Executive Director or the Board of Commissioners could determine that providing the electronic versions of the proposals in the wrong medium was a minor technical deficiency that could be accepted.

In response to potential concern that the two agencies are being afforded additional time beyond the October 15, 2007, 3 p.m. submission deadline to modify their proposals, County Counsel recommends requiring declarations, under penalty of perjury, that the two agencies are submitting the same proposals that were delivered to CDC offices on October 15.

Proposed Action

The CEO and CDC therefore recommend that the proposals prepared by New Directions and Clare Foundation be accepted with the original electronic media. It is CDC's intent to contact New Directions and Clare Foundation on Monday, November 5, 2007, unless otherwise instructed by your Board, to let them know that their proposals will be accepted with the original electronic media format along with a declaration that the proposals are the same as delivered to the CDC office on October 15th. CDC will give the agencies 48 hours to submit their original proposals, their original electronic media, and their declarations. The proposals will still be subject to threshold review as stated in the first phase of the evaluation process.

Late Proposals

One late proposer called a Board office to request waiver of the submission deadline. The Board office called the CDC and CDC staff informed the Board office that proposals received after 3 p.m. could not be accepted. Another proposer arrived at the CDC one and half hours late and requested permission to submit. The request was denied and proposal was not accepted. Another known proposer arrived prior to the submission deadline but their proposal package did not include any electronic media; this proposal was not accepted and proposer indicated they could not return prior to the submission deadline with the electronic media.

It is the CDC practice not to accept late proposals in competitive solicitations. For instance, the City of Industry RFP process, which has a 10 round record with the housing and supportive service provider community, has never accepted proposals submitted after the stated deadline. County Counsel has advised, however, that with respect to this type of solicitation, which is not controlled by bidding requirements imposed by statute or local ordinance, there is no express prohibition in the law against the acceptance of a late proposal if the Executive Director or the Board of Commissioners were to find that good cause existed for the late submission and such

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acceptance would not give the late proposer an unfair advantage in the solicitation process. In the event of a legal challenge to that decision, the courts would evaluate the CDC's action under an "abuse of discretion" standard, and any such challenge would be resolved on a case by case basis. The Executive Director of the CDC and the CEO, however, strongly recommend that the practice of not accepting late proposals be adhered to as to do otherwise would set an inappropriate precedent that could impact the County's solicitation processes.

If you have any questions or need additional information, please contact me, or Carlos Jackson, or your staff may contact Lari Sheehan, Deputy Chief Executive Officer, Community and Municipal Services at (213) 893-2477 or Lois Starr, Special Needs Housing, Housing Development Division, Community Development Commission at (323) 890-7431.

WTF:LS:
CJ:LS:ib

c: County Counsel